

STATE OF MICHIGAN
COURT OF APPEALS

SPRINGHILL ASSOCIATES, LIMITED
PARTNERSHIP # 2,

Petitioner-Appellant,

v

TOWNSHIP OF SHELBY,

Respondent-Appellee.

UNPUBLISHED
December 11, 2003

No. 247100
Tax Tribunal
LC No. 00-291424

APPLE GROVE ASSOCIATES,

Petitioner-Appellant,

v

TOWNSHIP OF SHELBY,

Respondent-Appellee.

No. 247101
Tax Tribunal
LC No. 00-291422

AUBURN ORCHARD ASSOCIATES,

Petitioner-Appellant,

v

TOWNSHIP OF SHELBY,

Respondent-Appellee.

No. 247102
Tax Tribunal
LC No. 00-291423

FOX LANE ASSOCIATES,

Petitioner-Appellant,

v

TOWNSHIP OF SHELBY,

Respondent-Appellee.

No. 247103
Tax Tribunal
LC No. 00-291425

SHELBY OAKS ASSOCIATES,

Petitioner-Appellant,

v

TOWNSHIP OF SHELBY,

Respondent-Appellee.

No. 247104
Tax Tribunal
LC No. 00-291426

SPRINGHILL ASSOCIATES,

Petitioner-Appellant,

v

TOWNSHIP OF SHELBY,

Respondent-Appellee.

No. 247105
Tax Tribunal
LC No. 00-291427

Before: Cavanagh, P.J., and Jansen and O'Connell, JJ.

PER CURIAM.

Petitioners appeal as of right the orders granting summary disposition in favor of respondent entered in each of these consolidated cases. We affirm.

Petitioners argue on appeal that the Tax Tribunal erred in granting respondent's motions for summary disposition with regard to the 2002 taxable values of petitioners' property. The Tax Tribunal found that it lacked subject matter jurisdiction to consider the legality of the precipitate increase in the taxable values of petitioners' property from the year 2000 to 2001, because

petitioners failed to timely file petitions protesting the 2001 taxable values of their property. The tribunal further found that because it could not alter the excessive 2001 taxable values, and because the 2002 taxable values were correctly calculated by the simple application of a statutory inflation factor to the 2001 taxable values, respondent was entitled to summary disposition. Petitioners contend that while they cannot request a refund for the 2001 taxes assessed on their property because of their failure to timely file a petition protesting the 2001 tax assessments, they are entitled to protest the 2002 assessments and to call for an examination of the taxable values of their property, even if this means examining the excessive increase in their 2001 taxable values.

The adoption of the “Proposal A” amendment of the Michigan Constitution at the special election held on March 15, 1994, added the following language to Const 1963, art 9, § 3, that generally limits annual increases in property tax assessments on a parcel of property as long as that property is owned by the same party:

For taxes levied in 1995 and each year thereafter, the legislature shall provide that the taxable value of each parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred.

Our review of a Tax Tribunal decision is limited to determining whether the tribunal committed a legal error or whether the tribunal adopted an incorrect principle. *Danse Corp v City of Madison Heights*, 466 Mich 175; 644 NW2d 721 (2002). The tribunal’s factual findings are final “if supported by competent, material, and substantial evidence on the whole record.” *Id.*, quoting *Michigan Bell Telephone Co v Treasury Dep’t*, 445 Mich 470, 476; 518 NW2d 808 (1994).

The Tax Tribunal has exclusive and original jurisdiction to review final decisions relating to assessments or valuations under the property tax laws. MCL 205.731(a). To invoke the tribunal’s jurisdiction, a party in interest must file a written petition “on or before June 30 of the tax year involved.” MCL 205.735(2). This statute “is not a notice statute, but a jurisdictional statute that governs when and how a petitioner invokes the Tax Tribunal’s jurisdiction.” *EDS v Flint Twp*, 253 Mich App 538, 542-543; 656 NW2d 215 (2002). Failure to correct assessments and evaluations in the manner and time provided by statute precludes later attack upon the assessment. *Auditor General v Smith*, 351 Mich 162, 168; 88 NW2d 429 (1958). The Tax Tribunal properly grants summary disposition to a respondent on the basis of the lack of subject matter jurisdiction when the petitioner fails to timely file the petition. *Kelser v Dep’t of Treasury*, 167 Mich App 18, 20-21; 421 NW2d 558 (1988).

Here, petitioners specifically stipulated before the Tax Tribunal that they were not contesting the assessed value of their property. The circumscribed relief that they requested below was a determination that the 2001 taxable value of their property violated the Michigan Constitution in that it represented an increase of more than the statutory inflation factor of 1.032 or five percent in value over the 2000 taxable values. The tribunal correctly determined that petitioners’ failure to challenge the 2001 taxable values within the statutory period prevented the tribunal from hearing and deciding it. So the only question before the tribunal was whether the assessor properly applied the statutory inflationary factor to the 2001 taxable values of the

petitioners' property when it determined the 2002 taxable values. Because there was no genuine issue of material fact that the assessor correctly made this simple calculation, the tribunal properly granted respondent's summary disposition motion. Petitioners argue that because they are challenging the 2002 taxable values and have properly invoked the tribunal's subject matter jurisdiction on this issue, they are entitled to have the tribunal reexamine the excessive increase in 2001 taxable values of their property. This is sophistry. A timely filed petition with regard to the 2002 taxable values restricts petitioners' proofs and the tax tribunal's inquiry to whether the 2002 taxable values were correctly calculated based on the 2001 taxable value. *Auditor General, supra*. It does not enable petitioners to circumvent the jurisdictional requirements of the Tax Tribunal. *Id.*; *EDS, supra*.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Peter D. O'Connell